

VAASA Legal Fact Sheet:

## Virginia Code Sections: Sexual Offenses

Includes Virginia Code sections relating to sexual offenses, and sexual assault-related issues: rape shield; reporting requirements; sentencing for felony and misdemeanor offenses. (2/03)

*Note:* Offenses carrying registration requirements (Megan's Law) have an asterisk (\*) next to code number

Section	Tag Line	Abbreviated Text	Penalty/Fine
§ 8.01-249	Cause of action; date of accrual	Actions for injury to person, whatever theory of recovery, resulting from sexual abuse occurring during infancy or competency of person, when fact of injury and its causal connection to sexual abuse (as in ¶18.2-67.10 and § 18.2.61 et.seq.) is first communicated to person by a licensed physician, psychologist, or clinical psychologist	Accruing after 7/1/91
§ 8.01.420.1	Limitation on use of recorded conversations as evidence	no mechanical recording of a telephone conversation shall be admitted in any civil proceeding unless (ii) portion of recording to be admitted contains admissions that, if true, would constitute criminal conduct which is basis for the civil action and one of the parties was aware of recording and proceeding is not one for divorce, separate maintenance or annulment of a marriage	
§ 14.1-190	Witness fees	stipulates parameters of fees and reimbursement for witnesses	

§	18.2-10	<b>Felony punishments</b>	
		Class 1 felony	death or life imprisonment and up to \$100,000 fine
		Class 2 felony	life or not less than 20 yrs and up to \$100,000 fine
		Class 3 felony	5-20 yrs and up to \$100,000 fine
		Class 4 felony	2-10 yrs and up to \$100,000 fine
		Class 5 felony	1-10 yrs or 1-12 months in jail and/or up to \$2,500 fine
§	18.2-11	<b>Misdemeanor punishments</b>	
		Class 1 misdemeanor	Up to 12 months in jail and/or up to \$2,500 fine
		Class 2 misdemeanor	Up to 6 months in jail and/or up to \$1,500 fine
		Class 3 misdemeanor	No jail time up to \$500 fine
		Class 4 misdemeanor	No jail time up to \$250 fine

<b>Criminal Offenses</b>				
§	*18.2-61	Rape	¥ force, threat, intimidation ¥ under 13; child cannot consent	5 years to life 5 years to life
§	*18.2-67.2:1	Marital sexual assault	engages in sexual intercourse, cunnilingus, fellatio, anallungus or anal intercourse, object penetration, accomplished against the spouse's will through: force, present threat of force or intimidation of or against the spouse or another person.	
§	18.2-63	Carnal Knowledge	includes intercourse, cunnilingus, fellatio, anallungus, anal intercourse, and animate and inanimate object sexual penetration; if victim is under 13, child cannot consent ¥ victim 13 or <15, no force; accused any age ¥ victim 13 or <15 and victim is 3+ yrs younger than accused; consent; accused <18 ¥ if victim is < 3 yrs younger than accused [also see §18.2-66]	Class 4 felony Class 6 felony Class 4 misdemeanor

§	*18.2-64.1	Carnal knowledge of certain minors	includes intercourse, cunnilingus, fellatio, anallingus, anal intercourse, and animate and inanimate object sexual penetration; if victim is under 13, child cannot consent ¥ is 15 or older; under care of J&DR court or custody of state - be it confined, on probation, furlough, leave or escaped; no force	Class 6 felony
§	*18.2-67.1	Forcible Sodomy	¥ force, threat, intimidation ¥ under 13; child cannot consent ¥ spouse: living separate and apart or bodily injury	5 years to life 5 years to life 5 years to life
§	*18.2-67.2	Object Sexual Penetration	¥ force, threat, intimidation ¥ under 13; child cannot consent ¥ spouse: living separate and apart or bodily injury	5 years to life 5 years to life 5 years to life
§	18.2-67.4	Sexual Battery	¥ Accused sexually abuses, as defined in §18.2-67.10 against the will of victim, through force, threat, intimidation, ruse, or through complaining witness' mental incapacity or physical helplessness. ¥ Victim = inmate, accused = employee, contracted employee, volunteer in a position of authority over the inmate ¥ Victim = person under probation, on parole or in transit from trial proceedings, accused = in a positions of authority	Class 1 misdemeanor
§	18.2-67.4:1	Infected Sexual Battery; penalty	Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellation, anallingus or anal intercourse with the intent to transmit the infection to another person.	Class 6 felony
§	*18.2-361 (B)	Crimes Against Nature part B	¥ Cunnilingus, fellatio, anallingus, anal intercourse; with a daughter, granddaughter, son, grandson, brother, sister or parent ¥ Child is 13 but < 18; accused is parent or grandparent	Class 5 felony Class 3 felony
§	*18.2-366 (B)	Incest (those forbidden to marry) part B	¥ Accused any person commits adultery or fornication with daughter, granddaughter, son, grandson, ¥ Child is 13 but < 18; accused is parent or grandparent	Class 5 felony Class 3 felony
§	*18.2-370	Indecent Liberties with Children	Accused 18 or >; with lascivious intent; who exposes himself to child < 14, proposes that child feel or fondle accused, or propose that child engage in sexual intercourse, or entices child to enter vehicle or place in order to do any of the above	Class 6 felony
§	18.2-370.01	Indecent Liberties by Children	Child, 13<18; with lascivious intent, exposes his/her genital parts to any other child <14, measured by actual dates of birth, is 5+ yrs the accused's junior, or the proposes that any such child expose him-/herself to such person	Class 1 misdemeanor
§	*18.2-370.1	Indecent Liberties with Child by person in custodial or supervisory relationship	¥ Victim less than 18; ¥ accused 18 or > not child's spouse, maintains custodial or supervisory relationship over child - includes but not limited to parent, step-parent, grandparent, step-grandparent, or loco parentis; with lascivious intent; ¥ proposes the child feel or fondle accused; or accused feels or fondles child; proposes to child the performance of sexual intercourse or any act under § 18.2-361; exposes himself to child; proposes child expose to accused; proposes child engage in sex acts with another person; sexually abuses child as in §18.2-67.10	Class 6 felony
§	18.2-371	Contributing to Delinquency of Minor	Any person 18 or older who engages in sexual intercourse with a child 15 or older not his or her spouse; consent is not a defense	Class 1 misdemeanor

§	18.2-344	Fornication	Sexual intercourse; not married	Class 4 misdemeanor
	18.2-460	Obstruction of justice	Any person who knowingly and willfully makes any materially false statement or representation to a law-enforcement officer who is in the course of conducting an investigation of a crime by another	Class 2 misdemeanor
§	18.2-60.3	Stalking	Engages on more than one occasion in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household. ¥ Law-enforcement officers acting in the course of duty exempted. ¥ Automatic order prohibiting contact. ¥Victim notified upon offenders' release.	Class 1 misdemeanor
§	18.2-66	Subsequent marriage of child over 14	victim >14 and victim and accused marry and accused properly supports victim until she/he reaches age of 16, indictment under §18.2-63 or 64.1 can be dismissed	

Treatment, Testing, Services, Defenses and Miscellaneous				
§	Rule 3A:12	For Attendance of Witnesses	Subpoena	
§	52-35	State Witness Protection Program	Available for "serious violent crimes" as well as assault and battery against a family member, third-offense misdemeanors, and certain violent sexual assaults	
§	16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1	Child protective orders		
§	18.2-67.4:1	Infected Sexual Battery	Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anallingus or anal intercourse with the intent to transmit the infection to another person shall be guilty of a Class 6 felony.	
§	18.2-67.6	Proof of physical resistance not required	Rape shield	
§	18.2-67.7	Admission of evidence	¥ Nothing contained in this section shall prohibit the accused from presenting evidence relevant to show that the complaining witness had a motive to fabricate the charge against the accused.  ¥ Court must determine admissibility of the evidence.	
§	18.2-62	HIV testing of certain persons	¥ May be requested by the Commonwealth Atty, after consulting a victim of the accused (having been charged with a sexual offense with an adult or a child). ¥ If the accused refuses to submit to a test, after a finding of guilt by the court, the accused may be ordered to submit to HIV testing. ¥ The results may not be used as evidence. ¥ The cost will be carried by the Commonwealth, and will be taxed as part of the cost of such criminal proceedings.	
§	19.2-9.1	Polygraph written notice	Witness shall be informed in writing prior to exam that 1) exam is voluntary 2) results are inadmissible 3) agreement to submit or decline shall not be sole condition for initiating or continuing criminal investigation	

§	19.2-11.01	Crime victim and witness rights	Crime victims must receive a form from law enforcement listing their rights. Victims may be offered a separate waiting area during court proceedings, informed of financial and social assistance options, and receive restitution for damages and employee compensation resulting from an offense. Victims have right to draft an impact statement to be read during court proceedings, and if appropriate officials have current address, victim shall be notified when offender changes name, escapes custody, is released, transferred, or discharged from prison. Courtroom assistance guaranteed as the victim's right to an interpreter, closed preliminary hearing, and a two-way closed-circuit television for sexual assault victims under the age of 14.
§	19.2-152.10, 19.2-152.8-9	Protective orders--stalking	Judge may issue protective orders and "preliminary" and "emergency" protective orders after a conviction, warrant for arrest, or hearing. Confidentiality of complainant.
§	19.2-165.1	Payment of medical fees in certain criminal cases (PERK)	Medical evaluation, examination, or service rendered be performed by a physician or facility specifically designated by the attorney for the Commonwealth in the city or county having jurisdiction of such case for such a purpose. If none are readily available, the Commonwealth atty may designate one.
§	19.2-262.1	Joinder of defendants	Upon good cause shown through motion of the Commonwealth, court shall order one trial for more than one defendant in a crime (e.g. gang rape); separate trials may be held if defense successfully shows prejudice to a defendant
§	19.2-298.1 through 19.2-298.3	Sex offender Registry	Registration in person of convicted criminals, duration of registration requirement, expungement from registry. Second offenders must reregister continually for life.
§	19.2-299 – 19.2-299.1	Victim Impact	
§	19.2-300-301	Mental Evaluation of Accused	Judge may order mental evaluation before sentencing in any case indicating "sexual abnormality." Confidentiality of evaluation.
§	19.2-368.1 through 19.2-368.18	Victim Compensation	
§	32.1-92.1	Funding of certain abortions where pregnancy results from rape or incest	
§	63.1-248.3	Mandatory Reporting	Mandatory reporting of suspected abuse or neglect of children- who must report—and immunity.
§	54.1-2924.1	Expired	
§	63.1-55.3	Mandatory reporting	Reporting of reason to suspect sexual abuse committed against an aged or incapacitated adult.
§	18.2-370.2	Sex Offenses prohibiting proximity to children	[See next section]
§	54.1-3609 through 54.1-3611	Sex offender treatment providers	Certified practices advisory committee

§	18.2-370.2	Sex Offenses prohibiting proximity to children		Class 6 Felony
§	18.2-47	Abduction and Kidnapping		Class 5 Felony

§	18.2-48 (ii, iii)	Abduction with intent to extort money or for immoral purpose	¥ abduction of any person with intent to defile such person or ¥ of any child under 16 for the purpose of concubinage or prostitution.	Class 2 Felony
§	18.2-361(B)	Crimes against Nature	Any person who carnally knows by the anus or by or with the mouth his daughter or granddaughter, son or grandson, brother or sister, or father or mother.	Class 5 Felony
			Parent or grandparent commits such an act with grand/child, and child is 13, but <18 at the time of offense.	Class 3 Felony
§	18.2-366	Adultery and fornication by persons forbidden to marry; incest	Fornication with grand/daughter or grand/son, father or mother	Class 5 Felony
			Parent or grandparent commits such an act with grand/child, and child is 13, but <18 at the time of offense	Class 3 Felony
§	18.261(A, iii)	Rape	Sexual intercourse with a child under age 13 as the victim	Five Years to Life
§	18.2-63	Carnal knowledge of child 13-15 years of age	Accused = adult, victim = 13-15, no force	Class 4 Felony
			Consenting child is > 3 yrs accused's junior	Class 6 Felony
			Consenting child (victim) is <3 yrs accused's junior	Class 4 Misdemeanor
			Child <13 cannot consent, in calculating whether such child is 3+ years junior of accused minor, the actual dates of birth for both shall be used.	
§	18.2-64.1	Carnal knowledge of certain minors	Person providing services to juveniles under the purview of the Court or under the custody of the state, carnally knows, without the use of force, any minor 15+ years, while minor is being detained or in custody	Class 6 Felony
§	18.2-67.1	Forcible Sodomy	¥ under 13; child cannot consent	5 years to life
§	18.2-67.2 (A, i)	Object Sexual Penetration; penalty	¥ under 13; child cannot consent	5 years to life
§	18.2-67.3 (A, i)	Aggravated Sexual Battery	¥ under 13	1-20 years, <\$100,000 fine
§	18.2-370	Taking indecent liberties with children	Accused 18 or>; with lascivious intent; who exposes himself to child < 14, proposes that child feel or fondle accused, or propose that child engage in sexual intercourse, or entices child to enter vehicle or place in order to do any of the above	Class 6 Felony
§	*18.2-370.I	Indecent Liberties with Child by person in custodial or supervisory relationship	¥ Victim less than 18; ¥ accused 18 or > not child's spouse, maintains custodial or supervisory relationship over child - includes but not limited to parent, step-parent, grandparent, step-grandparent, or loco parentis; with lascivious intent;	Class 6 felony
			¥ proposes the child feel or fondle accused; or accused feels or fondles child; proposes to child the performance of sexual intercourse or any act under € 18.2-361; exposes himself to child; proposes child expose to accused; proposes child engage in sex acts with another person; sexually abuses child as in €18.2-67.10	
§	18.2-371	Contributing to Delinquency of Minor	Any person 18 or older who engages in sexual intercourse with a child 15 or older not his or her spouse; consent is not a defense	Class 1 misdemeanor

§	18.2-374.1	Production, publication, sale, possession with intent to distribute, financing, etc., of sexually explicit items involving children; presumption as to age; severability	<p>¥ “sexually explicit material” = any visual media, including unprocessed film, which depicts sexual bestiality, a lewd exhibition of nudity, sexual excitement, sexual conduct, or sadomasochistic abuse.</p> <p>¥ accosts, entices, or solicits person &lt;18 with intent to induce/force person to perform in/be a subject of sexually explicit visual material.</p> <p>¥ produces , makes, attempts, or prepares to produce or make sexually explicit visual material which uses or has as a subject a person &lt;18.</p> <p>¥ Knowingly takes part in or participates in the filming, photographing or other reproduction of sexually explicit visual material by any means, including, but not limited to computer-generated reproduction, which uses or has a subject &lt;18</p> <p>¥ Sells, gives away, distributes, electronically transmits, displays with lascivious intent, purchases, or possesses with intent to sell, give away, distribute, transmit or display with lascivious intent sexually explicit visual material which utilizes or has as a subject a person &lt;18</p>	Class 5 Felony
			<p>¥person who finances or attempts to finance sexually explicit visual material that has or uses a person &lt;18</p>	Class 4 Felony
§	18.2-374.1:1	Possession of Child Pornography; Penalty	<p>¥ knowingly having sexually explicit visual material involving a person &lt;18</p> <p>¥ this does not apply to bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or any other proper purpose having a proper interest in the material.</p> <p>¥ this type of material is subject to lawful seizure and forfeiture.</p> <p>¥ A subsequent offense</p>	Class 1 Misdemeanor
				Class 6 Felony
§	18.2-379	Employing or permitting minor to assist in offense	Unlawful to hire, use or permit a minor to do or assist in any manner of sexual activity.	

Penetration Offenses - Child victim				
§	*18.2-63	Carnal Knowledge	Includes intercourse, cunnilingus, fellatio, anallungus, anal intercourse, and animate and inanimate object sexual penetration; if victim is under 13, child cannot consent	
		used when accused is step-parent of child	¥ Victim 13 or <15, no force; accused any age	Class 4 felony
			<p>¥ Victim 13 or &lt;15 and victim is 3+ yrs younger than accused; consent; accused &lt;18</p> <p>¥ if victim is &lt; 3 yrs younger than accused</p> <p>[Also see §18.2-66]</p>	<p>Class 6 felony</p> <p>Class 4 misdemeanor</p>

§	*18.2-64.1	Carnal knowledge of certain minors	Includes intercourse, cunnilingus, fellatio, analingus, anal intercourse, and animate and inanimate object sexual penetration; if victim is under 13, child cannot consent	Class 6 felony
			¥ Is 15 or older; under care of J&DR court or custody of state - be it confined, on probation, furlough, leave or escaped; no force	
§	*18.2-361 (B)	Crimes Against Nature part B	¥ Cunnilingus, fellatio, analingus, anal intercourse; with a daughter, granddaughter, son, grandson, brother, sister or parent	Class 5 felony
			¥ child is 13 but <18; accused is parent or grandparent	Class 3 felony
§	18.2-361	Crimes against Nature	Section B. Any person who carnally knows by the anus or by or with the mouth his daughter or granddaughter, son or grandson, brother or sister, or father or mother.	Class 5 Felony
			Parent or grandparent commits such an act with grand/child, and child is 13, but <18 at the time of offense.	Class 3 Felony
§	*18.2-366 (B)	Incest (those forbidden to marry) part B	¥ accused any person commits adultery or fornication with daughter, granddaughter, son, grandson	Class 5 felony
			¥ child is 13 but < 18; accused is parent or grandparent	Class 3 felony

Touching Offenses - Child victim				
§	*18.2-370	Indecent Liberties with Children	accused 18 or>; with lascivious intent; who exposes himself to child < 14, proposes that child feel or fondle accused, or propose that child engage in sexual intercourse, or entices child to enter vehicle or place in order to do any of the above	Class 6 felony
§	18.2-370.01	Indecent Liberties by Children	Child, 13<18; with lascivious intent, exposes his/her genital parts to any other child <14, measured by actual dates of birth, is 5+ yrs the accused's junior, or the proposes that any such child expose him-/herself to such person	Class 1 misdemeanor
§	*18.2-370.1	Indecent Liberties with Child by person in custodial or supervisory relationship	victim less than 18; accused 18 or > who is not child's spouse and who maintains custodial or supervisory relationship over child - includes but not limited to parent, step-parent, grandparent, step-grandparent, or loco parentis; with lascivious intent; ¥ who proposes the child feel or fondle accused; or accused feels or fondles child ; proposes to child the performance of sexual intercourse or any act under € 18.2-361; exposes himself to child; proposes child expose to accused; proposes child engage in sex acts with another person; sexually abuses child as in €18.2-67.10	Class 6 felony
§	18.2-47	Abduction and Kidnapping		Class 5 Felony
§	18.2-48	Abduction with intent to extort money or for immoral purpose	Section ii. abduction of any person with intent to defile such person or Section iii. of any child under 16 for the purpose of concubinage or prostitution.	Class 2 Felony
§	18.2374.1	Production, publication, sale, possession with intent to distribute, financing, etc., of sexually explicit items involving children; presumption as to age; severability	<p>¥ "sexually explicit material" = any visual media, including unprocessed film, which depicts sexual bestiality, a lewd exhibition of nudity, sexual excitement, sexual conduct, or sadomasochistic abuse.</p> <p>¥ accosts, entices, or solicits person &lt;18 with intent to induce/force person to perform in/be a subject of sexually explicit visual material.</p> <p>¥ produces , makes, attempts, or prepares to produce or make sexually explicit visual material which uses or has as a subject a person &lt;18.</p> <p>¥ Knowingly takes part in or participates in the filming, photographing or other reproduction of sexually explicit visual material by any means, including, but not limited to computer-generated reproduction, which uses or has a subject &lt;18</p> <p>¥ Sells, gives away, distributes, electronically transmits, displays with lascivious intent, purchases, or possesses with intent to sell, give away, distribute, transmit or display with lascivious intent sexually explicit visual material which utilizes or has as a subject a person &lt;18</p>	Class 5 Felony
			¥ person who finances or attempts to finance sexually explicit visual material that has or uses a person <18	Class 4 Felony

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